

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SIMON WILLIAMS, JR.,

Plaintiff,

v.

ATTORNEY MICHAEL EVANS, *et al*,

Defendants.

Case No. C06-5288RBL-KLS

SECOND ORDER TO SHOW
CAUSE REGARDING
PLAINTIFF'S APPLICATION
TO PROCEED *IN FORMA*
PAUPERIS

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the Court on plaintiff's filing of an application to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. To file a complaint and initiate legal proceedings plaintiff must pay a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

On April 12, 2006, plaintiff filed his complaint and application to proceed *in forma pauperis* with the United States District Court Eastern District of Washington. (Dkt. #7). On May 25, 2006, the United States District Court Eastern District of Washington transferred this matter to this Court. (Dkt. #6). On June 1, 2006, the Clerk sent plaintiff a letter informing him his application was deficient in that he had not submitted the written consent required by Local Rule CR 3(b). (Dkt. #8). The Clerk informed plaintiff that

1 failure to submit that consent by July 3, 2006, could result in dismissal of this action.

2 On June 6, 2006, the Court issued an order informing plaintiff of certain other deficiencies in his
3 application to proceed *in forma pauperis*. (Dkt. #10). That order, however, was returned as undeliverable
4 on June 8, 2006, as had the letter sent by the Clerk previously. (Dkt. #11-#12). On July 13, 2006, plaintiff
5 filed a notice of change of address with the Court. (Dkt. #13). Accordingly, the Court hereby is issuing
6 this second order to show cause to give plaintiff another opportunity to cure the deficiencies in his
7 application.

8 Local Rule CR 3(b) provides in relevant part:

9 At the time application is made under 28 U.S.C. § 1915 or other applicable acts of
10 Congress, for leave to commence any civil action or to file any petition or motion without
being required to prepay fees and costs or give security for them, each petitioner, movant
or plaintiff shall:

- 11 (1) Complete the in forma pauperis affidavit approved for use in this district; and
12 (2) File a written consent that the recovery, if any, in the action, to such amount as
the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and
13 costs taxed against the plaintiff, and to his attorney the amount which the court allows or
approves as compensation for the attorney's services.

14 As noted in the letter plaintiff was sent by the Clerk, plaintiff has not submitted the written consent required by
15 Local Rule CR 3(b)(2).

16 In addition, the acknowledgment and authorization plaintiff submitted pursuant to 28 U.S.C. §
17 1915(b), references the \$250.00 Court filing fee he is obligated to re-pay. At the time plaintiff filed his
18 complaint, however, the filing fee had been increased to \$350.00. Accordingly, the Court requires from
19 plaintiff a new signed and completed acknowledgment and authorization form referencing the current
20 \$350.00 filing fee.

21 Finally, pursuant to 28 U.S.C. § 1915(a)(2):

22 A prisoner seeking to bring a civil action or appeal a judgment in a civil action or
23 proceeding without prepayment of fees or security therefor . . . shall submit a certified
copy of the trust fund account statement (or institutional equivalent) for the prisoner for
24 the 6-month period immediately preceding the filing of the complaint or notice of appeal,
obtained from the appropriate official of each prison at which the prisoner is or was
25 confined.


26 Plaintiff thus was required to submit a statement showing the balance and activity of his account for the
27 six-month period immediately preceding the filing of his complaint. However, plaintiff has submitted a
statement showing the balance and activity of his account only for the months of January and February,
28 2006.

Accordingly, the Court orders the following:

- (1) Plaintiff shall seek to cure the above deficiencies by filing **no later than August 17, 2006**,
 - (a) a copy of his prison trust account statement pursuant to 28 U.S.C. § 1915(a)(2) showing the balance and activity of his account(s) for the six-month period immediately preceding the filing of his complaint; (b) a copy of the acknowledgment and authorization form pursuant to 28 U.S.C. § 1915(b) referencing the \$350.00 filing fee; and (c) a copy of the written consent required by Local Rule CR 3(b), as noted by the Clerk.

Failure to cure these deficiencies by the above date shall be deemed a failure to properly prosecute this matter and the Court will recommend dismissal of this matter.
- (2) The Clerk is directed to send a copy of this Order to plaintiff, along with the appropriate written consent and acknowledgment and authorization forms.

DATED this 17th day of July, 2006.



Karen L. Strombom
United States Magistrate Judge